PHS Chapter 2-7

PHS Facilities Manual, Volume Two (Part 2)

PHS Transmittal

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Subject: DISPOSAL PROCEDURES

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PHS:

., 2-7-00 PURPOSE

> This chapter prescribes the policies and methods governing the identification, handling (protection and maintenance), and ultimate disposal of unrequired real property.

PHS:

POLICY 2-8-10

Property or interests therein are disposed of by or through the General Services Administration (GSA) after being declared to be excess to the needs of the agency (DHHS) having custody and accountability for the property.

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is the policy of the Administrator, GSA to provide for the transfer of excess real property among Federal agencies to eliminate the need to acquire new real properties. Improvements of no commercial value, after requisite approvals, may be abandoned, donated to public bodies, or destroyed. Also, property for Indian health purposes may be transferred to the Department of the Interior under specific legislation.

- A. Real property may be retained only when one or more of the following factors exists:
 - 1. There is a firm current or foreseeable authorized requirement for the property;
 - 2. The value and characteristics of the property represent the most effective, economical, and timely method of meeting program requirements;
 - 3. The property is needed to protect the Government's investment in an activity by providing for definite and foreseeable expansion requirements.
- B. The Federal Property Management Regulations, Title 41, Subpart 47 provides additional guidance for disposal actions.

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PHS:

2-7-20 DEFINITIONS

- A. <u>Disposal Agency</u> is defined as the executive agency designated by the Administrator of General Services to dispose of excess or surplus property.
- B. Excess Real Property means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.
- C. No Commercial Value means real property, including related personal property, which has no reasonable prospect of being disposed of at a consideration.
- D. <u>Public Body</u> means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any political subdivision, agency, or instrumentality of the foregoing.

 Indian tribes are not considered "public bodies" for the purposes of real property donations.
- E. Related Personal Property means any personal proeprty which is an integral part of real property or is related to, designed for, or especially adapted to the functional or productive capacity of the real

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property and removal of this personal property would significantly diminish the economic value of the real perperty.

F. Surplus Real Property is defined as any real property and related personal property reported excess which has been screened for the needs of Federal agencies or waived from such screening by GSA and has not be designated by GSA for utilization by another federal agency.

PHS:

2-7-30 IDENTIFYING AND REPORTING EXCESS REAL PROPERTY

- A. Real Property Unit Managers (RPUM), after appropriate internal clearances/approvals are received, shall report excess real property to DHFP/PHS for screening as to other possible Departmental needs. Reports shall be submitted at least 120 calendar days in advance of the date such property will become available for transfer or disposal.
- B. PHS is designated as the disposal agency for leases, permits, licenses, easements, and similar real estate interests held by the PHS agencies in non-Government owned property. This includes Government-owned improvements located on the premises except when it is determined by either PHS or GSA that the Government's best interests would be served for such disposal to be handled by GSA.

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- C. When buildings or other improvements are excessed without the underlying land, an original only of SF 118 and SF 118A, Report of Excess Real Property, prepared in accordance with GSA instructions in FPMR 101-47.4902, will be submitted to DHFP. The report will include a request, inserted in Block 18, that GSA act as the disposal agency for the property and a statement that "This property has been screened against the known needs of the Department."
- D. The report will be reviewed by DHFP and screened for other departmental need or for the requirements delineated in approved long-range facility plans. If a requirement exists, the Director, Office of Management (OM), will authorize transfer between the PHS Agencies. When no departmental need is determined by the DHFP screening procedure, the Report of Excess will be directed to the appropriate GSA regional office in the required number of copies (and original plus 4 copies). The holding agency will be notified of this action by copy of the report.
- E. Reports of excess property for lands which are under the custody and responsibility of the Department and which have been withdrawn or reserved from the public domain will follow the same procedures outlined in paragraph B. above, insofar as PHS and the agencies are concerned.

 DHFP will file with the Department of the Interior the required notice of intention to relinquish the property, and will forward a copy of the notice to the appropriate GSA regional office. The SF 118 will not be completed and processed unless the Secretary of the Interior, with the

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concurrence of the Administrator of General Services, determines that the land is not suitable for return to the public domain. See FPMR 101-47.202-6.

- F. The following excess real property under the custody and responsibility of the Department is not required to be reported to GSA:
 - Buildings or structures to be dismantled or removed to make way for new construction on the same site, provided the removal is incorporated in the new construction contract.
 - 2. Buildings or other structures for relocation to a new site where the land underlying the dismantled property is not excess.
- G. Reports of excess property that is subject to donation under special provisions as described in 2-7-40 will include the information in paragraph B. above, if appropriate, and will also, in the "Remarks" column of the SF 118, cite the law or delegation under which the property is being excessed.
- H. Where Government-owned land is involved, the RPUM will submit to DHFP an original of SF 118 and schedules A, B, and C, as necessary, including legible copies of documents relating to the Government's title to the land, based on the agency records. Also required is a report which will contain all the information required in FPMR 107-47.202-2, including the

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legislative jurisdiction, if any, of the United States over the land, together with a citation of the basis of such jurisdiction. The report must also certify that the facilities are in compliance with 40 CFR 761, 'Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions." This rule severely restricts the use, handling, storage, and disposal of PCBs.

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2-7-40 BOARDS OF SURVEY/DETERMINING ECONOMIC VALUE

- A. Government-owned improvements located on land for which DHHS has control and accountability may be destroyed after it has been determined that the improvement has no commercial value, or that the estimated cost for continued care, protection, and maintenance would exceed the estimated proceeds of its sale. Improvements owned by the Government may also be abandoned on privately-owned property. See FPMR 101-47.5.
- B. No property shall be abandoned or destroyed until the above facts have been determined by a Board of Survey designated by the head of the office or installation having management responsibility for the property. Any official who is directly accountable or responsible for the property shall not serve in any surveying capacity. The survey should determine the original cost of the property (estimated if not

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- known), the estimated cost to the Government for its protection and maintenance, and whether it is dangerous to public health or safety.
- C. The criteria of health, safety, and security shall be interpreted literally. Buildings and structures which either have structural defects or are contaminated to the extent that it is impracticable to make them safe or sterile for further use are examples of buildings not meeting these criteria. The criteria are also applicable to related materials and equipment which have either been contaminated through use in connection with the treatment or research of infectious and contagious diseases, or have been subjected to radiation, to the extent that it is not practicable to sterilize or neutralize them. The dictates of security policy or regulations requires that such property be destroyed when it is no longer of any value or use for the purpose of which it was originally intended.
- D. A Real Property Survey Report in the format shown in Exhibit 2-7-G must be completed in each instance, initiated by the RPUM, signed by the survey board members, and submitted to the Director, DHFP for a decision as to whether the property is dangerous to the extent of requiring special safeguards. Based upon the recommendations of the survey board, the Director, DHFP will then decide whether the property should be retained, destroyed, or abandoned. A copy of the approved Report of Survey will be furnished to the PHS agency.

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- E. The completed Survey Report must be forwarded to GSA for concurrence when the property either (1) had an original cost of more than \$50,000,(2) is of permanent type construction, or (3) would enhance the value of the underlying land, if retained.
- F. When abandonment or donation has been authorized, the RPUM shall give public notice in accordance with the instructions in FPMR 101-47.503.

PHS:

2-7-50 TRANSFERS OF EXCESS PROPERTY

Transfers of excess property from one agency to another are generally handled with reimbursement equal to the appraised fair market value of the property (deposited into the Treasury as miscellaneous receipts). Upon determination by GSA that a transfer of the property requested is in the best interest of the Government and that the requesting agency is the appropriate agency to hold the property, the transfer may be made among Federal agencies.

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Approval of the Office of Management and Budget (OMB) is required if a transfer without reimbursement is proposed or when the transferor agency has requested the net proceeds of the transfer. Transfers without reimbursement are generally processed when the Administrator of General Services, with the approval of the Director, Office of Management and Budget, has approved a request for an exception from the 100% reimbursement requirement, or Congress has specifically authorized the transfer without reimbursement. See FPMR 101-47.203-7 for specifics on transfers without reimbursement and requests for net proceeds from a transfer.

PHS agencies requesting transfers of excess properties should prepare a GSA Form 1334, Request for Transfer of Excess Real and Related Property, (see Appendix 2-7-H) and forward the completed form to DHFP. Chapter 2-1 contains additional procedures for acquiring real property.

PHS:

2-7-60 TRANSFERS FROM IHS TO DEPARTMENT OF INTERIOR

A. <u>Background</u>. The basic authority of the Indian Health Service (IHS) stems from the so-called Indian Health Transfer Act, Public Law 83-568 of August 5, 1954, which transferred Indian health functions from the Department of the Interior, Bureau of Indian Affairs (BIA) to PHS.

Under section 4 of that Act, the properties of BIA relating primarily to

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health matters were authorized to be transferred to PHS subject to the approval of the then Director of the Bureau of the Budget. If trust properties are involved, the transferee agency assumes the trust obligation with respect to the Indian tribes, as well as other authorities and responsibilities. In recognition of the fact that adjustments would from time to time be called for in the respective real property holdings for the benefit of Indian tribes, and in order to simplify transfer procedures, a Memorandum of Understanding (MOU) was entered into in 1961 by the Secretary of the Interior, the Secretary of Health, Education, and Welfare, the the Administrator of General Services to cover such transfers as well as retransfers of property between the two Departments involved. Delegation of Authority No. 396 of May 3, 1961 (26 FR 4029) implemented the MOU by authorizing the two Secretaries "to transfer and to retransfer to each other, upon request, any of the property of either agency which is being used and will continue to be used in the administration of any function relating to Indians." Transfers under that Delegation of Authority, which appears in FPMR 41 CFR 101-47.604, do not require any screening of other agencies.

This disposal authority can be used by the IHS when it has unrequired real property for which the BIA has expressed "an administrative need". Such transfers are limited to property which must: (1) comprise a functional unit and be within the United States, (2) have had

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acquisition cost of \$100,000 or less, and (3) not be located in an area recognized as an urban area or place for the purpose of the most recent decennial census. The BIA must request and accept custody for property transferred under this authority.

B. The MOU is in effect except to the extent that it has been superseded by section 202(a)(2) of the Federal Property and Administrative Services

Act of 1949, which was added by P.L. 93-599, approved January 2, 1975.

The new section of the Act provides for the transfer, without compensation, of certain excess real property to the Secretary of the Interior to be held in trust status under BIA in favor of the Indian tribes within whose boundaries such excess property is located or, in Oklahoma, within a former Indian reservation or contiguous to real property now held in trust for an Indian tribe but only if the property itself was once held in trust by the United States for an Indian tribe.

It applies only to real property that is <u>not</u> held in trust for an Indian tribe. Transfers thereunder are made to the Secretary of Interior for the benefit of Indian tribes. The property so transferred may be used by <u>Indian tribes themselves</u> or by BIA for administrative purposes for the benefit of Indian tribes. BIA always assumes a trust obligation in

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favor of Indian tribes for property so transferred. Section 202(a)(2) does not call for any reimbursement of the transferring agency.

Property already held by IHS in trust for an Indian tribe is not subject to section 202(a)(2), but may be transferred to BIA pursuant to Delegation of Authority No. 396, or, if outside the Delegation, under excess property procedures. In the absence of GSA regulations specifically applicable to transfers under section 202(a)(2), a Form SF 118, Report of Excess, should be used and the applicability of that section demonstrated by indicating:

- 1. The name of the Indian reservation within which the property is located and the fact that the Indian tribe occupying the reservation is recognized by the BIA; or
- 2. If the property is within Oklahoma, the fact that it is within the boundaries of a former reservation and was held in trust for an Indian tribe at the time of its acquisition by the United States, or is contiguous to property now held in trust for an Oklahoma Indian tribe and was itself at one time held in trust by the United States for an Indian tribe.
- C. Excess IHS real property should first be tested to see whether the property is in a status such as to make P.L. 93-599 applicable. If not,

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the provisions of FPMR 101-47.604 may, if appropriate, must be followed. Real property proposed for transfer to the BIA, also require the preparation of a Form SF-118. Supporting information should identify the property and demonstrate how it meets the above conditions. The SF-118 and justifications are then forwarded through IHS headquarters and HRSA to DHFP for approval.

PHS:

2-7-70 CUSTODY/ACCOUNTABILITY FOR EXCESS REAL PROPERTY

- A. Once the Report of Excess is reviewed and accepted by the General Services Administration (GSA), the GSA will provide an acceptance date and a GSA Control number.
- B. The PHS agency will be responsible for the expense of physical care, handling, protection, maintenance, and repair of excess and surplus real property, pending its transfer or disposal, for not more than 12 months plus the period to the first day of the succeeding quarter of the fiscal year after the date the property is accepted by GSA for disposition. In the event the property is not transferred to a Federal agency or disposed of during that period, the expense of physical care, handling, protection, maintenance, and repair of such property thereafter will be assumed by GSA. Guidelines for protection and maintenance contained in

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FPMR 101-47.4913 should be followed. This responsibility will include the minimum services necessary to preserve the Government's interest, and will continue to be exercised until the actual transfer or disposal of the property.

C. Excess real property which has been reported to and accepted by the GSA must remain in the PHS agency's Real Property Inventory system until such time as final disposition has been acknowledged by the GSA.

--7-STANDARD FORM 118
DECEMBER 1953
PRESCRIBED BY GENERAL
SERVICES ADMINISTRATION
FPMR (41 CFR) 101-47:202 1. HOLDING AGENCY NO. DATE RECEIVED (GSA use one REPORT OF EXCESS REAL PROPERTY 2. DATE OF REPORT GSA CONTROL NO. (GSA use 3. TO (Furnish address of GSA regional offices) 4. FROM (Name and address of holding agency) General Services Administration 5. NAME AND ADDRESS OF REPRESENTATIVE TO BE CONTACTED 6. NAME AND ADDRESS OF CUSTODIAN 7. PROPERTY IDENTIFICATION 8. PROPERTY ADDRESS (Give full location) 9. SPACE DATA 10. LAND FLOOR LOAD CAPACITY FLOOR AREA (Sq. ft.) (2) NUMBER OF BUILDINGS NUMBER OF (From SF 118b) USE CLEAR HEADROOM ACRE OR SQUARE FEET (1) (3) (4) A. OFFICE A. FEE B. STORAGE B. LEASED C. OTHER (See 9 F) C. OTHER D. TOTAL (From SF 118a) D. TOTAL E. GOV'T INTEREST: F. SPECIFY "OTHER" USE ENTERED IN C ABOVE (1) OWNER (2) TENANT LEASEHOLD(S) DATA (Use separate sheet if necessary) 11. COST TO GOVERNMENT ITEM SCHEDULE COST A. TOTAL ANNUAL RENTAL \$ B. ANNUAL RENT PER SQ. FT. OR ACRE A. BUILDINGS, STRUCTURES, UTILITIES, AND MISCELLANEOUS FACILITIES \$ C. DATE LEASE EXPIRES A (Col d) B. LAND B (Col. f) D. NOTICE REQUIRED FOR RENEWAL C. RELATED PERSONAL PROPERTY E. TERMINAL DATE OF RENEWAL RIGHTS C (Col. h) D. TOTAL (Sum of 11A, 11B, and 11C) F. ANNUAL RENEWAL RENT PER SQ. FT. OR ACRE \$ E. ANNUAL PROTECTION AND MAINTENANCE COST (Government-owned or leased) G. TERMINATION RIGHTS (in days) LESSOR GOVERNMENT 13. DISPOSITION OF PROCEEDS 14. TYPE OF CONSTRUCTION 15. HOLDING AGENCY USE 16. RANGE OF POSSIBLE USES 17. NAMES AND ADDRESSES OF INTERESTED FEDERAL AGENCIES AND OTHER INTERESTED PARTIES 18. REMARKS

SIGNATURE

NAME

TITLE

19. REPORT AUTHORIZED

BY

118_103

STANDARD FORM 118—A DECEMBER 1953 PRESCRIBED BY GENERAL SERVICES ADMINISTRATION FPMR (41 CFR) 101-47.202

BUILDINGS, STRUCTURES, UTILITIES, AND MISCELLANEOUS FACILITIES

I. HOLDING AGENCY NO.

3. ANNUAL RENTAL

FLOOR LOAD RANGE (1)*

CLEAR HEAD ROOM (h)* NO. OF FLOORS (g)*

FLOOR AREA (Sq. fr.) (f)*

OUTSIDE DIMENSIONS <u> છ</u>

> COST €

DESCRIPTION છ

HOLDING AGENCY BUILDING NO. (b)

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\$U.S. Government Printing Office: 1981-341-526/6318

*Prefix figures with symbols to denote type of space, as follows: (a) for office; (b) for storage; (c) for other.

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RESTRICTIONS ON USE OR TRANSFER OF GOVERNMENT INTEREST

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GSA CONTROL NO. (GSA use only)

SCHEDULE A-SUPPLEMENT TO REPORT OF EXCESS REAL PROPERTY

2.
PAGE OF PAGES
OF THIS SCHEDULE
GSA CONTROL NO. (GSA
use only) RESTRICTIONS ON USE OR TRANSFER OF GOVERNMENT INTEREST Ξ EASEMENT INFORMAL AGREEMENT GOVERNMENT INTEREST LICENSE 1. HOLDING AGENCY NO. PERMIT LEASE FEE 118-302 TYPE OF ACQUISITION Ξ ANNUAL RENTAL 8 SCHEDULE B-SUPPLEMENT TO REPORT OF EXCESS REAL PROPERTY EXCESS REAL PROPERTY COST ε ACRES OR SQUARE FEET છ TRACT ACQUIRED (Acres or sq. ft) Ð TOTAL NAME OF FORMER OWNER OR LESSOR AND ADDRESS (2) STANDARD FORM 118—B
DECEMBER 1933
PRESCRIBED BY GENERAL
SERVICES ADMINISTRATION
REGULATION 2-IV-201.00 TRACT NO. Ð LINE NO. 3 m w 2 2 2 Z 5 9 5 5 n R R = = R 2 z R R 12 8 Ŋ. ಸ ౯

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• GSA CONTROL NO. (GSA use only) 2 PAGE OF PAGES OF THIS SCHEDULE DO NOT USE THIS SPACE (i) TOTAL COST Ξ I. HOLDING AGENCY NO. 3. SCC GROUP (2 digite) UNIT COST 3 NUMBER OF UNITS (f) SCHEDULE C-SUPPLEMENT TO REPORT OF EXCESS REAL PROPERTY CNT (e) CON-DITION (d) RELATED PERSONAL PROPERTY STANDARD COMMODITY CLASSIFICATION (c) TOTAL DESCRIPTION ê ANDARD FORM 118—C CEMBER 1953 GENERAL ESCRIBED BY GENERAL RVICES ADMINISTRATION MR (4IGFR) 101—17.202 Eg 3

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Pursuant to the Federal Property Management Regulations 101-47.2, each real property location which is subject to excess procedures must have a clear title. A "Report of Title," shall accompany each Report of Excess Real Property, SF 118.

POLITING AGENCY'S REPORT ON TITLE

	BOIDING HOENCI O METORI ON IIIIE
	Date:
age (or:	tructions: To be completed by a qualified employee of the reporting and attached to the SF 118, Report of Excess Real Property iginal and four copies). Check all applicable items and furnish all uested information.
1.	The property is locally known as
	County of, State of
	The property is legally described as: (insert if space sufficient

The property is legally described as: (insert if space sufficient/ attach separate page(s) if needed/refer to recorded deed or declaration of taking. Attach a drawing in all cases, including the locations of all buildings. If a metes and bounds description, a survey or map must be furnished which permits tracing the boundaries to assure they "close." The drawing should be of sufficient size so that dimensions and acreage can be confirmed. Multiple acquisitions must be listed.)

- 2. Title was obtained by deed () condemnation () withdrawal from the public domain (). (Attach legible copy of deed or declaration of taking, as recorded in county land records. If withdrawn, see item no. 10 below.)
- 3. State all exceptions, reservations, conditions, and restrictions relating to the title <u>acquired</u> and attach legible copies of all such easements, permits, licenses, and encumbrances. A copy of the Government's title insurance policy at the time of acquisition should be included if available.
- 4. No action, thing, or circumstance has occurred <u>from the date of acquisition</u> of this property by the United States to the date of this report which in any way affected or <u>may</u> have affected the right, title, and interest of the United States in and to this real

PHS Exhibit 2-7-E PHS Facilities Manual, Volume Two (Part 2) Date:

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property except as follows: (State 'NONE" or list all easements, permits and other encumbrances affecting title and provide legible copies of same.)

- 5. ()A. There are no special circumstances affecting jurisdiction that are peculiar to this property by reason of its being Government-owned.
 - ()B. Civil and criminal jurisdiction is exclusive.
- 6. () This property is not located in an identified floodplain or wetlands and is not subject to flood hazards or flooding. (If this statement cannot be made, list on a separate page the restricted uses, furnish appropriate deed, covenants, and cite the applicable Federal, State, or local regulations addressing same.)
- 7. () This property contains no known fixtures or related personal property have possible historic, architectural, archeological, or cultural value. (If any such items exist, specifically identify and describe them on a separate page and state whether on or eligible for the National Register. Include the Advisory Council and State Historic Preservation Officer comments and proposed protective covenants.)
- 8. () This property has no known historical, architectural, archeological, or cultural significance and is not listed, eligible for listing, or in proximity to any property which is listed on the National Register. No effort by the public to have this property so listed has come to the attention of the holding agency. (If these statements cannot be made, provide details on a separate page together with the Advisory Council and State Historic Preservation Officer comments and proposed protective covenants.)
- 9. () This property has been screened against the known needs of this holding agency.
- 10. () This property has been withdrawn from the public domain and this holding agency has been advised by the Secretary of the Interior that it is not suitable for return to the public domain and properly may be reported to GSA for disposal pursuant to the Federal Property and Administrative Services Act of 1949. (Enclose a copy of DOI's notification and report; see FPMR 101-47.202-6(c).)
- 11. () This property, in its present condition, is not dangerous or hazardous to the public health and safety (e.g., toxic waste contamination, military ordinance and explosive waste, debris).

	Facil	it 2-7-E ities Manual, Volume Two (Part 2) Page 3
		(If this statement cannot be made, attach separate page(s) explaining extent of contamination and plans for decontamination.)
	12.	() This holding agency is in compliance with 40 CFR 761, "Polyclorinated Biphenals (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions," as it relates to PCB use, storage, handling, and disposal on this property, AND,
		()a. There are no known PCBs on or associated with the property being excessed,
		OR
		()b. There are known PCBs on the property. An inventory and description of protective action taken are attached.
	13.	() This property contains no asbestos material, such as is sometimes used to insulate ceilings, pipes, and ducts, or to fireproof structural members. (If property contains asbestos, specifically identify and describe location.)
		() Unable to determine.
. /34.	14.	() This property () is () is not located on an Indian Reservation. (If located on an Indian Reservation, provide name of the reservation and tribe.)
	15.	This property () is () is not locates within the corporate limits of a city or town. (If it is, provide name of city or town and name and address of mayor or city manager.)
By:		Date:
Nam	e:	Signature
		(Typed)
Tit	le:	Agency:
FTS	No.:	Comm. No:

Attach appraisals, photographs, and other pertinent information, if any. Do not hesitate to call for assistance in reporting this or any other property you no longer need.

IE COMMENTS	GSA CONCURRENCE REGARD- LESS OF ORIGINAL			GSA CONCURRENCE REGARD- LESS OF ACQUISITION COST (LAND)		6SA CONCURRENCE IF ACQUI- SITION COST EXCEEDS \$50,000 " OR PERMANENT TYPE OR WOULD E"HANCE VALUE OF LAND	
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INDI GOVERNMENI PROPERTY REQUIRED UNLESS <u>VALUE</u> IS LESS THAN \$1,000 OR PROBLEMS WITH HEALTH, SAFETY OR SECURITY.

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A. Recommendations

HHS Exhibit 12-80-B Facilities Engineering and Construction Manual HHS Transmittal 83.04 (11/10/83)

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01-47.4904

§ 101-47.4904 GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.

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11. STATEMENT OF RISTIFICATION (This statement must include date with respect to all factors covered in Francisco of CSA Form 1334).

(If required, use an additional gal by, sheet,

GENERAL SERVICES. ADMINISTRATION

GSA rome 1334 (nev. a-77)